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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,776

01/21/2004

Bradford C. Banta

003-71

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7590

12/13/2006

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EXAMINER

FIGUEROA, ADRIANA

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,776

Applicant(s)

BANTA, BRADFORD C.

Examiner

Adriana Figueroa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 6, 9, 16 are objected to because of the following informalities:
Claims 9 and 16 in line 2, the phrase "extends of an angle..." is misspelled.
Claim 6 in line 3, the phrase "brackets and generally rectangular.." is misspelled.
Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 appears depending from claim 8, which is improper since the bracket assembly cannot have the limitations "at an angle of about ninety degrees" and "an angle of less than ninety degree" simultaneously. Claim 16 describe the same limitations of claim 9 and is dependent from claim 14 which describe the same limitations of claim 7, therefore claim 9 should be dependent from claim 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 6, 7, 9, 10, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Leone (US 5,961,242).

Regarding claim 1, Leone discloses a bracket assembly having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (12) and said second portion engaging the second elongate structural member (14); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (3) connected to and extending generally perpendicularly from said second wall; and a fourth wall (4) connected to and extending generally perpendicularly from said third wall for engaging the first structural member, (annotated Figure 4).

Regarding claim 4, Leone discloses the bracket assembly including a fifth wall (5) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 4).

Regarding claim 6, Leone discloses the bracket assembly in which each of said first (F) and second (S) portion of said generally planar surfaces of said first and second brackets are generally rectangular in shape, (annotated Figure 4).

Regarding claim 7, Leone discloses the bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 4).

Regarding claim 9, Leone discloses the bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of less than ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 4).

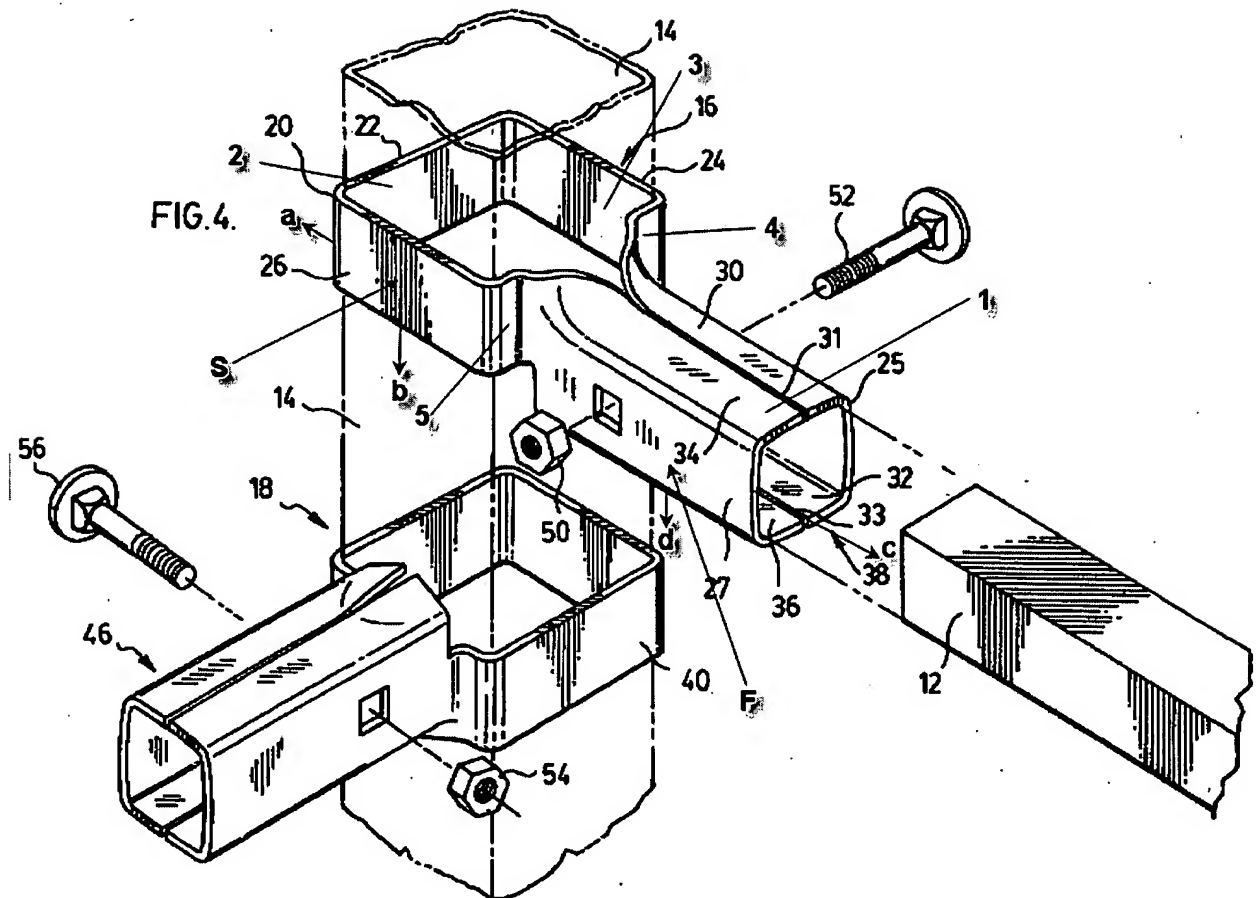
Regarding claim 10, Leone discloses a bracket assembly having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (12) and said second portion engaging the second elongate structural member (14); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (3) connected to and extending generally perpendicularly from said second wall; and a fourth wall (4) connected to and extending generally perpendicularly from said third wall for engaging the first structural member; a fifth wall (5) connected to and extending generally perpendicular from said

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second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 4).

Regarding claim 14, Leone discloses the bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 4).

Regarding claim 16, Leone discloses the bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of less than ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 4).



Leone (US 5,961,242)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 5-8, 10, 13, 15, 17, 19, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Leek (US 2004/0079034).

Regarding claim 1, Leek discloses a bracket assembly having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (60) and said second portion engaging the second elongate structural member (70); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (8) connected to and extending generally perpendicularly from said second wall; and a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member, (annotated Figure 5).

Regarding claim 5, Leek discloses a bracket assembly in which said third wall (8) of each of said first and second assembly brackets is generally triangular in shape, (annotated Figure 5).

Regarding claim 6, Leek discloses a bracket assembly in which each of said first (F) and second (S) portion of said generally planar surfaces of said first and second brackets and generally rectangular in shape, (Figure 5).

Regarding claim 7, Leek discloses a bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and

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a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 5).

Regarding claim 8, Leek discloses a bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of about ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 5).

Regarding claim 10, Leek discloses a bracket assembly having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (60) and said second portion engaging the second elongate structural member (70); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (8) connected to and extending generally perpendicularly from said second wall; and a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member; a fifth wall (5) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 5).

Regarding claim 13, Leek discloses the bracket assembly in which said third wall (8) of each of said first (F) and second (S) assembly brackets is generally triangular in shape, (annotated Figure 5).

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Regarding claim 15, Leek discloses a bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of about ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 5).

Regarding claim 17, Leek discloses a bracket assembly having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (60) and said second portion engaging the second elongate structural member (70); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a generally triangular shaped third wall (8) connected to and extending generally perpendicularly from said second wall; a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member; and a fifth wall (5) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 5).

Regarding claim 19, Leek discloses a bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 5).

Regarding claim 20, Leek discloses a bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of about ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 5).

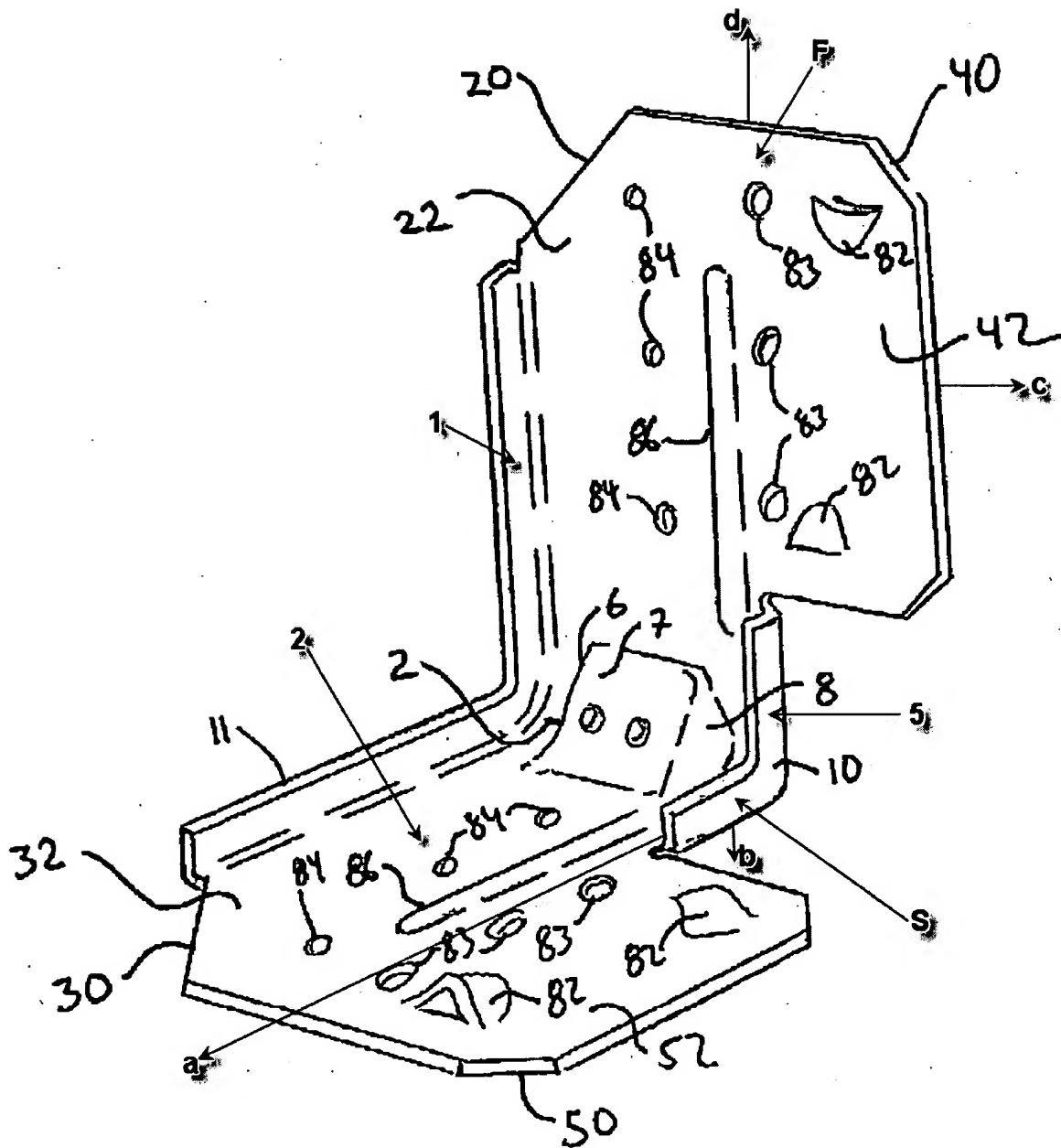


FIGURE 5-

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leone (US 5, 961,242) Figure 4 in view of Leone (US 5, 961,242) Figure 6. Leone in Figure 4 discloses as discussed in claims 1 and 10, but does not disclose a bracket assembly in which said connector means comprises a first bolt for interconnecting said first portion (F) of said generally planar surface with the first elongating structural member (12) and a second bolt for interconnecting said second portion (S) of said generally planar surface with the second elongate structural member (14). However, Leone in Figure 6 discloses a first bolt (102) interconnecting said first portion (84) of said generally planar surface with the first elongating structural member (114).

Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the connector means of Leone in Figure 4 to have a bolt interconnecting the first and second portions with the structural members as taught by Leone in Figure 6 in order to provide a stronger connection.

6. Claims 3, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leek (US 2004/0079034) in view of Moehlenpah (US 4,209,265).

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Leek discloses as discussed in claims 1, 10 and 17, but does not disclose a bracket assembly in which each of said first (F) and second portions (S) of said generally planar surface of each of said first and second brackets is provided with a plurality of spaced apart, lanced out areas which form protruding tabs for penetrating the first and second elongate structural members. However, Moehlenpah teaches a bracket assembly (N) having protruding tabs (T), (Figures 1, 4).

Double Patenting

7. Applicant is advised that should claims 4 and 5 be found allowable, claims 10, 13, 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schwartz (US 4,007,993) teaches a bracket assembly having a first and second portion and a first, second, third, fifth wall. Burwall (US 4,189,247) teaches a connector assembly having first and second portions and perpendicular walls.

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MacLeod (US 4,589,795) teaches a connector assembly having the major axis at an angle less than ninety degrees.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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